

JUN 19 2009

**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-1942

TANDI RENEE MUSICK
aka TANDI RENEE LEE
aka TANDI RENEE MUSICK-CAVER
aka TANDI RENEE R. CAVER
979 San Remo
Irvine, CA 92606

ACCUSATION

Vocational Nurse License No. VN 205712

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about August 29, 2003, the Board of Vocational Nursing and Psychiatric Technicians ("Board") issued vocational nurse license number VN 205712 to Tandi Renee Musick, aka Tandi Renee Lee, aka Tandi Renee Musick-Caver, aka Tandi Renee R. Caver

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1 ("Respondent"). The license was in full force and at all times relevant to the charges brought
2 herein and will expire on February 28, 2009, unless renewed.

3 STATUTORY PROVISIONS

4 3. Section 2875 of the Business and Professions Code ("Code") provides, in
5 pertinent part, that the Board may discipline the holder of a vocational nurse license for any
6 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
7 Act.

8 4. Section 2878 of the Code states, in pertinent part:

9 The Board may suspend or revoke a license issued under
10 this chapter [the Vocational Nursing Practice Act (Bus. & Prof.
Code, § 2840, et seq.)] for any of the following:

11 (a) Unprofessional conduct...

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13 5. Section 2878.5 of the Code states:

14 In addition to other acts constituting unprofessional conduct
15 within the meaning of this chapter [the Vocational Nursing
Practice Act] it is unprofessional conduct for a person licensed
16 under this chapter to do any of the following:

17 (a) Obtain or possess in violation of law, or prescribe, or
18 except as directed by a licensed physician and surgeon, dentist or
19 podiatrist administer to himself or herself or furnish or administer
20 to another, any controlled substance as defined in Division 10 of
the Health and Safety Code, or any dangerous drug as defined in
Article 8 (commencing with Section 4210) of Chapter 9 of
Division 2 of this code.

21 (b) Use any controlled substance as defined in Division 10
22 of the Health and Safety Code, or any dangerous drug as defined in
Article 8 (commencing with Section 4210) of Chapter 9 of
23 Division 2 of this code, or alcoholic beverages, to an extent or in a
24 manner dangerous or injurious to himself or herself, any other
person, or the public, or to the extent that such use impairs his or
her ability to conduct with safety to the public the practice
authorized by his or her license.

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26 (d) Be committed or confined by a court of competent
27 jurisdiction for intemperate use or addiction to the use of the
28 substances described in subdivisions (a) and (b) of this section,
in which event the court order of commitment or confinement
is prima facie evidence of that commitment or confinement.

6. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8. California Code of Regulations, title 16, section 2521 provides, in pertinent part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes shall include but not be limited to those involving the following:

....

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

....

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

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1 9. "DRUGS"

2 "Methamphetamine" is a Schedule II controlled substance as designated by Health
3 and Safety Code section 11055(d)(2).

4 FIRST CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct - Arrest for Crime Substantially Related)
6 (March 2007 Arrest - Under Influence of Controlled Substance - Methamphetamine)

7 10. Respondent is subject to disciplinary action under Code section 2878(f),
8 and California Code of Regulations, title 16, section 25219(c) and (f) in that on March 27, 2007,
9 Respondent was arrested for violation of Health and Safety Code section 11377(a) (Possession of
10 a Controlled Substance - Methamphetamine), a felony, and for violation of Vehicle Code section
11 12500(a) (Unlicensed Driver), a misdemeanor. The circumstances are as follows:

12 a. On March 27, 2007, Irvine Police Department officers, while conducting traffic
13 enforcement, stopped Respondent's vehicle for an expired registration. Officers observed several
14 abrasions on Respondent's face, which were consistent with Methamphetamine users. During
15 the traffic stop, Officers asked Respondent to exit her vehicle and asked if she had any illegal
16 drugs on her person and Respondent said she did not. Officers asked Respondent if they could
17 search her vehicle and Respondent consented to the search of her vehicle. While conducting a
18 search of Respondent's vehicle, Officers found a blue makeup compact in Respondent's purse.
19 Inside the compact, Officers found a small ziploc baggie containing a white crystalline substance
20 and a silver cigarette case with two additional ziploc baggies containing a white crystalline
21 substance similar to the substance in the first baggie found. Respondent was arrested for the
22 violations outlined at paragraph 10, above.

23 b. Respondent completed Court ordered Penal Code section 1000 program.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)
3 (Illegal Possession of a Controlled Substance - Methamphetamine.)

4 11. Respondent is subject to disciplinary action under Code sections 2878(f),
5 2878.5(a), and California Code of Regulations, title 16, section 2521(c) and (f) in that on
6 March 27, 2007, Respondent was arrested for violation of Health and Safety Code section
7 11377(a) (Possession of a Controlled Substance - Methamphetamine), a felony. See paragraph
8 10(a) for circumstances surrounding Respondent's arrest.

9 THIRD CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct)
11 (Refusal to Cooperate With Board of Vocational Nursing and Psychiatric Technicians)

12 12. Respondent is subject to disciplinary action under Code sections 2878(f),
13 and California Code of Regulations, title 16, section 2521(c), in that Respondent has failed to
14 respond to the Board's request for information pertaining to her arrest.

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